

Exhibit A



John “Jack” D. Wilenchik, Esq.

jackw@wb-law.com

WILENCHIK & BARTNESS

— A PROFESSIONAL CORPORATION —
ATTORNEYS AT LAW
The Wilenchik & Bartness Building
2810 North Third Street Phoenix Arizona 85004

Telephone: 602-606-2810 Facsimile: 602-606-2811

June 11, 2021

VIA EMAIL ONLY

David Bodney
bodneyd@ballardspahr.com

Re: Cyber Ninjas

David:

Thank you for your letter dated June 2nd. As you know, this law firm represents Cyber Ninjas, Inc. (hereinafter referred to as “CNI”).

Your letter, which was directed to CNI, purports to be a request for inspection of public records under A.R.S. § 39-121 (the “Public Records Law”).

However, it is apparent from a reading of A.R.S. §§ 39-121 *et seq.* that requests for inspection of public records should be directed to an “officer or public body” – and/or, that any action for wrongful denial of access to public records may only be filed against an “officer or public body.” A.R.S. § 39.121.02(C)(“[a]ny person who is wrongfully denied access to public records pursuant to this article has a cause of action *against the officer or public body* for any damages resulting from the denial”)(emphasis added); *see also e.g.* A.R.S. § 39-121 (“[p]ublic records and other matters *in the custody of any officer* shall be open to inspection...”)(emphasis added); A.R.S. § 39-121.01(B)(“[a]ll officers and public bodies shall maintain all records...”)

CNI is not an “officer” within the definition of A.R.S. § 39-121.01(A)(1), nor is it a “public body” within the definition of A.R.S. § 39-121.01(A)(2). The foregoing statute provides that “officer” means “any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.” CNI is not a person elected or appointed to hold any elective or appointive office of a public body, etc. “Public body” is defined as “this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state.” CNI is clearly not the “state” or a “political subdivision,” etc.; nor is it a “public organization or agency...” It is a private contractor.



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

David Bodney
June 11, 2021
Page 2 of 2

Therefore, your letter was not properly directed to CNI. Moreover, your client may not file an action against my client under A.R.S. § 39.121.02. In the event that your client files such an action against CNI, then please consider this letter to be my client's advance notice that it deems such an action to be groundless under the statute and will demand that it be withdrawn under Rule 11, as well as seek its attorneys' fees and costs as appropriate.

Finally, in accordance with the above analysis, CNI will not be producing any records in response to the letter. Please feel free to contact my office with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Wilenchik', with a stylized flourish at the end.

John "Jack" D. Wilenchik, Esq.

Exhibit B

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 09/16/2021
AMY M. WOOD,
CLERK
BY: KLE

CYBER NINJAS, INC.,)
) Court of Appeals
) Division One
Petitioner,) No. 1 CA-SA 21-0173
) No. 1 CA-SA 21-0176
v.) (Consolidated)
)
THE HONORABLE JOHN HANNAH, Judge)
of the SUPERIOR COURT OF THE) Maricopa County
STATE OF ARIZONA, in and for the) Superior Court
County of MARICOPA,) No. LC2021-000180-001
)
Respondent Judge,)
)
PHOENIX NEWSPAPERS, INC., an)
Arizona corporation, and KATHY)
TULUMELLO; ARIZONA STATE SENATE,)
a public body of the State of)
Arizona; KAREN FANN, in her)
official capacity as President)
of the Arizona State Senate;)
WARREN PETERSEN, in his official)
capacity as the Chairman of the)
Arizona Senate Committee on the)
Judiciary; SUSAN ACEVES, in her)
official capacity as Secretary)
of the Arizona State Senate,)
)
Real Parties in Interest.)
)
ARIZONA STATE SENATE, a public)
body of the State of Arizona;)
KAREN FANN, in her official)
capacity as President of the)
Arizona Senate; WARREN PETERSEN,)
in his official capacity as)
Chairman of the Senate Judiciary)
Committee; SUSAN ACEVES, in her)
official capacity as the)
Secretary of the Arizona State)
Senate,)
)
Petitioners,)

v.)
)
)
 THE HONORABLE JOHN HANNAH, Judge)
 of the SUPERIOR COURT OF THE)
 STATE OF ARIZONA, in and for the)
 County of MARICOPA COUNTY,)
)
 Respondent Judge,)
)
 PHOENIX NEWSPAPERS, INC.; KATHY)
 TULUMELLO; CYBER NINAS, INC.,)
)
 Real Parties in Interest.)
 _____)

ORDER GRANTING STAY

The court, Acting Presiding Judge David B. Gass, Judge Maria Elena Cruz, and Judge Randall M. Howe participating, has reviewed Cyber Ninjas, Inc.'s (CNI) Motion to Stay Trial Court's Order and Joinder of the Arizona State Senate parties (collectively Senate). After consideration,

IT IS ORDERED granting a stay of the superior court's August 24, 2021, Order to Produce Public Records, page 5, lines 22 through 27 as follows:

1. Staying the deadline for the Senate to produce documents to Phoenix Newspapers, Inc. (PNI) by Friday, September 17, 2021 ("3 days after the Arizona Supreme Court lift[s] the stay in CV2021-008265, *American Oversight v. Karen Fann et al.*"). The stay only lifts the deadline but does not relieve the Senate of its obligation to produce all documents (1) related to the Maricopa County 2020 election audit (the "Audit"), (2) responsive to public records requests issued to the Senate, and (3) in the possession or control of CNI related to the Audit.
2. Staying the requirement that CNI produce all documents to PNI directly.

IT IS FURTHER ORDERED based on the Senate's September 14, 2021, request for documents to CNI, CNI will promptly begin processing the Senate's request and will provide responsive documents to the Senate for the Senate's review on an ongoing basis. Because the Senate has contracted for assistance so it can promptly handle the document review for privilege, as the Senate receives documents from CNI, it will process the documents and provide them to PNI on an ongoing basis.

IT IS FURTHER ORDERED the above stay shall remain in force through September 29, 2021, unless otherwise earlier terminated by this court.

IT IS FURTHER ORDERED PNI shall file responses to the Senate and the CNI petitions for special action by September 20, 2021. The Senate and CNI shall file their respective replies by September 24, 2021.

_____/s/_____
David B. Gass,
Acting Presiding Judge

A copy of the foregoing
was sent to:

Dennis I Wilenchik
John D Wilenchik
Jordan C Wolff
David Jeremy Bodney
Craig C Hoffman
Kory A Langhofer
Thomas J Basile
Hon John R Hannah Jr

Exhibit C

KAREN FANN
SENATE PRESIDENT
FIFTY-FIFTH LEGISLATURE
1700 WEST WASHINGTON, SENATE
PHOENIX, ARIZONA 85007-2844
PHONE: (602) 926-5874
TOLL FREE: 1-800-352-8404
kfann@azleg.gov
DISTRICT 1



COMMITTEES:
Rules, Chairman

Arizona State Senate

September 14, 2021

Cyber Ninjas Inc.
c/o Doug Logan & Legal Department
5077 Fruitville Road, Suite 109-421
Sarasota, Florida 34232
dlogan@cyberninjas.com
legal@cyberninjas.com

To whom it may concern at Cyber Ninjas Inc.:

Pursuant to the Arizona Public Records Act, Sections 15.4 and 18.5 of our Master Services Agreement dated March 31, 2021, and the orders entered by Judges Kemp and Hannah in *American Oversight v. Fann* and *Phoenix Newspapers, Inc. v. Arizona State Senate*, please immediately make available to the Arizona State Senate all records within your custody or control, or within the custody or control of your subcontractors or other agents, with a substantial nexus to the audit. For the avoidance of doubt, documents with a substantial nexus to the audit include without limitation all documents and communications relating to the planning and performance or execution of the audit, all policies and procedures used in connection with the audit, all records concerning audit funding or staffing, and all records that are reasonably necessary or appropriate to maintain an accurate knowledge of activities concerning the 2020 Maricopa County election audit.

Respectfully,

A handwritten signature in cursive script that reads "Karen Fann".

Karen Fann, President
Arizona State Senate

Exhibit D

Subject: Cyber Ninjas, Inc. Response to Senate re Status
Date: Friday, September 17, 2021 at 11:33:14 AM Mountain Standard Time
From: Jack Wilenchik
To: Kory Langhofer, Thomas Basile
CC: Jordan Wolff, Dennis Wilenchik
Priority: High
Attachments: image152104.png, Policies and Procedures.zip

Kory – thank you for communicating to our client that the Court in Maricopa County Superior Court Case No. CV2021-008265 (the “American Oversight” case) has requested a status report from the Senate.

First, I must strongly emphasize that my client Cyber Ninjas, Inc. (CNI) is in the final “throes” of completing its work for the Senate. CNI is finishing its long-awaited written report (consisting of over one hundred pages), which will be produced to the Senate on or by next Friday, September 24th. CNI is a small private company, and the Senate’s request for records is causing CNI to take time away from the completion of its report. Just yesterday, the CEO of CNI spent approximately 12 hours dealing with trying to process the Senate’s request, which was time directly taken away from the duties that CNI has actually contracted to perform for the Senate.

I also emphasize that, while CNI intends to produce documents out of goodwill and its commitment to transparency, by sending this communication CNI does not concede the existence or scope of any involuntary legal obligation to do so.

The Senate requested records with “a substantial nexus to the audit,” including certain enumerated items, from CNI and its subcontractors. At this time, CNI has been able to reach out to most of its subcontractors (all but one) to notify them that it has received this request.

The phrase “a substantial nexus to the audit” is not defined, and it is difficult to define. For example, CNI’s internal company emails re: staffing or performance of the contract are not the kind of items that should be subject to production in a public-records request. If the case were otherwise, then it would set an extremely unsettling precedent for all government contractors in this state and make it impossible for the State to do business. For example, if CNI has private internal emails discussing its own contractual relationship with the Senate or its own performance of its contract with the Senate, then such emails would be subject to not only production to the Senate but also to the public. That is not practical, workable, fair or legal.

Attached hereto are copies of CNI’s current policies and procedures, which is one of the items enumerated in the Senate’s request. CNI acknowledges that these have been previously made public and it confirms that these continue to represent its existing policies and procedures. CNI is endeavoring to determine whether its subcontractors have any new or updated policies or procedures at this time and expects to have answers to that in the near future.

With respect to communications, CNI intends to produce copies of its communications with the Senate and its officials that have a substantial nexus to the contract/audit. CNI is unable to make that production at this moment in time because it needs to focus on completing its contractual duty of producing a written report. Once that report has been finished and the report has been produced (by next Friday Sep. 24), then it will promptly focus on the production of such communications (and of course earlier if and as it is able to do so).

With respect to financial disclosures (another item requested) – CNI intends to release full financial statements on the audit either as part of its report or shortly thereafter. With respect to “records...concerning

staffing” (another requested item): as with CNI’s internal communications (above), CNI’s private records concerning its own staff are not public records.

The Senate also enumerated a request for “all records that are reasonably necessary or appropriate to maintain an accurate knowledge of activities concerning the 2020 Maricopa County election audit.” This is undefined; but CNI believes that the Senate already has such records as may be reasonably necessary or appropriate to maintain an accurate knowledge of activities concerning the 2020 audit, with the important exception of our final report (whose release date you already know). The Senate had several liaisons who were present to watch audit operations daily and regular reports were made. There was 24/7 public live-streaming of all audit activities. Those records are already in the Senate’s possession and are public records.

If there are any activities that the Senate would like to request more details or specific records on, then please communicate them to us and my client would be glad to sit down with the Senate or its representatives after the final report is released.

Sincerely – Jack Wilenchik, Esq. on behalf of Cyber Ninjas, Inc.



www.wb-law.com

Jack Wilenchik
Attorney at Law
JackW@wb-law.com

The Wilenchik & Bartness Building
2810 North Third Street
Phoenix, Arizona 85004
P 602-606-2816 | F 602-606-2811

ATTORNEY/CLIENT COMMUNICATION

The information transmitted by this e-mail is intended only for the addressee and may contain confidential and/or privileged material. Any interception, review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited by law and may subject them to criminal or civil liability. If you received this communication in error, please contact us immediately at (602) 606-2810, and delete the communication from any computer or network system.

Exhibit E

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

CYBER NINJAS, INC., *Petitioner,*

v.

THE HONORABLE JOHN HANNAH, Judge of the SUPERIOR COURT
OF THE STATE OF ARIZONA, in and for the County of MARICOPA,
Respondent Judge,

PHOENIX NEWSPAPERS, INC., an Arizona corporation, and KATHY
TULUMELLO; ARIZONA STATE SENATE, a public body of the State of
Arizona; KAREN FANN, in her official capacity as President of the
Arizona State Senate; WARREN PETERSEN, in his official capacity as the
Chairman of the Arizona Senate Committee on the Judiciary; SUSAN
ACEVES, in her official capacity as Secretary of the Arizona State Senate,
Real Parties in Interest.

No. 1 CA-SA 21-0173
FILED 11-9-2021

Petition for Special Action from the Superior Court in Maricopa County
No. LC2021-000180-001
The Honorable John Hannah, Judge

JURISDICTION ACCEPTED; RELIEF DENIED

COUNSEL

Wilenchik & Bartness, P.C., Phoenix
By Dennis I. Wilenchik, John D. Wilenchik, Jordan C. Wolff
Counsel for Cyber Ninjas, Inc.

Ballard Spahr LLP, Phoenix
By David Jeremy Bodney, Craig Hoffman, Matthew E. Kelley
*Counsel for Real Parties in Interest Phoenix Newspapers, Inc. and Kathy
Tulumello*

Statecraft PLLC, Phoenix
By Kory A. Langhofer, Thomas J. Basile
*Counsel for Real Parties in Interest Arizona State Senate, Karen Fann, Warren
Petersen, and Susan Aceves*

MEMORANDUM DECISION

Judge Maria Elena Cruz delivered the decision of the Court, in which
Acting Presiding Judge David B. Gass and Judge Randall M. Howe joined.

C R U Z, Judge:

¶1 Petitioner Cyber Ninjas, Inc. (“Cyber Ninjas”) seeks relief from the superior court’s order denying its motion to dismiss the special action complaint filed against it by Phoenix Newspapers, Inc. and Kathy Tulumello (collectively “PNI”). For the following reasons, we accept jurisdiction but deny relief.

FACTUAL AND PROCEDURAL HISTORY

¶2 The Arizona Senate initiated an audit of voting equipment used and ballots cast in Maricopa County in the 2020 general election, and it retained Cyber Ninjas, a private corporation, to serve as its primary vendor for that audit. Cyber Ninjas then hired multiple private companies to assist it in the audit.

¶3 In June 2021, the Arizona Republic, published by Phoenix Newspapers, Inc., served a request on Cyber Ninjas to inspect documents relating to the audit. The newspaper asserted the documents were public records subject to inspection under Arizona’s Public Records Law (“PRL”), Chapter 1 of Title 39, Arizona Revised Statutes (“A.R.S”). Cyber Ninjas did not produce any records to the Arizona Republic in response to its request.

¶4 PNI then filed a statutory special action under the PRL against Cyber Ninjas, the Senate, Senate President Karen Fann and other Senate

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

officials. Cyber Ninjas moved to dismiss the complaint, which the superior court denied. Citing A.R.S. § 39-121.02, the court ordered Cyber Ninjas to produce copies of public records related to the audit in its possession, custody, or control. Cyber Ninjas then petitioned for special action seeking relief from: (1) the superior court’s denial of its motion to dismiss and (2) the order to produce any public records directly to PNI. At Cyber Ninjas’ request, we temporarily stayed the superior court’s order that it produce all documents directly to PNI.¹

SPECIAL ACTION JURISDICTION

¶5 Special action review is generally appropriate if a party has no “equally plain, speedy, and adequate remedy by appeal.” Ariz. R.P. Spec. Act. 1(a); *see generally Sw. Gas Corp. v. Irwin*, 229 Ariz. 198, 201, ¶¶ 5-7 (App. 2012). Our decision to accept special action jurisdiction is discretionary and is “appropriate in matters of statewide importance, issues of first impression, cases involving purely legal questions, or issues that are likely to arise again.” *State v. Superior Court (Landeros)*, 203 Ariz. 46, 47, ¶ 4 (App. 2002).

¶6 Here, the issues raised in the petition are pure questions of law and are of statewide importance. Accordingly, we accept special action jurisdiction.

DISCUSSION

¶7 This case presents a question of statutory interpretation, which we review de novo. *McHale v. McHale*, 210 Ariz. 194, 196, ¶ 7 (App. 2005).

¶8 The PRL requires “[a]ll officers and public bodies” to “maintain all records . . . reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities that are supported by monies from this state or any political subdivision of

¹ The Senate is not a party to this special action proceeding from the superior court’s ruling against Cyber Ninjas. We note that, as a consequence of our ruling in *Fann v. Kemp*, 1 CA-SA 21-0141, 2021 WL 3674157 (Ariz. App. Aug. 19, 2021) (mem. decision), the Senate has formally asked Cyber Ninjas to produce to the Senate certain documents relating to the audit that remain in Cyber Ninjas’ possession. Per the parties’ agreement, we ordered Cyber Ninjas to promptly begin processing the Senate’s request to disclose those documents to the Senate for it to review on an ongoing basis.

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

this state.” A.R.S. § 39-121.01(B). Arizona law imposes additional duties on those responsible for public records. For example, “[e]ach public body shall be responsible for the preservation, maintenance and care of that body’s public records, and each officer shall be responsible for the preservation, maintenance and care of that officer’s public records.” Each public body also has a duty “to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction” A.R.S. § 39-121.01(C).

¶9 We recently addressed a request for audit documents made to the Arizona Senate under the PRL. *Fann*, 1 CA-SA 21-0141, at *4-5, ¶¶ 23-25. In that case, we rejected the Senate’s contention that records relating to the audit that remain in Cyber Ninjas’ possession are not subject to the PRL and we ruled the Senate must obtain from Cyber Ninjas any records that were requested under the PRL. *Id.* at ¶¶ 21-25 (holding Cyber Ninjas was the Senate’s agent in performing an “important legislative function”). To be clear, and because Cyber Ninjas continues to argue to the contrary, we reiterate our holding in *Fann* that documents relating to the audit are public records subject to the PRL even if they are in the possession of Cyber Ninjas rather than the Senate. *Id.* at *4, ¶ 23.

¶10 Cyber Ninjas also argues it cannot be subject to suit under the PRL because it is not a public entity, an issue that, as PNI acknowledges, was not before this court in *Fann*. In support of the superior court’s ruling, PNI first argues Cyber Ninjas is subject to suit under the PRL because it is an “officer” of the Senate or a “public body.” We disagree.

¶11 Section 39-121.01(A) defines “Officer” and “Public body” as follows:

A. In this article, unless the context otherwise requires:

1. “Officer” means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
2. “Public body” means this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state.

A.R.S. § 39-121.01(A)(1), (2).

¶12 Cyber Ninjas has performed a public function in undertaking the audit and was paid with public funds to do so. Nevertheless, although the Senate delegated its legislative responsibilities with respect to the audit to Cyber Ninjas, Cyber Ninjas is not a “public body” or “officer” as the PRL defines those terms. Neither definition in A.R.S. § 39-121.01 encompasses a private contractor, and Cyber Ninjas cannot fairly be characterized as either. *See supra* ¶ 11.

¶13 PNI also argues it may obtain relief against Cyber Ninjas under the PRL because Cyber Ninjas is the sole “custodian” of documents that are public records subject to disclosure under the PRL. We agree.

¶14 As PNI contends, the PRL requires a “custodian” of public records to “promptly furnish” requested records. A.R.S. § 39-121.01(D)(1). Although the PRL does not define “custodian,” that word commonly means “[a] person or institution that has charge or custody (of a child, property, papers, or other valuables),” or “[s]omeone who carries, maintains, processes, receives, or stores a digital asset.” *Black’s Law Dictionary* 483 (11th ed. 2019). “Custody” means “[t]he care and control of a thing or person for inspection, preservation, or security.” *Id.*; *W. Valley View Inc. v. Maricopa Cnty. Sheriff’s Office*, 216 Ariz. 225, 229, ¶ 16 (App. 2007).

¶15 To the extent Cyber Ninjas is in sole possession of audit-related public records because of its contract with the Senate, Cyber Ninjas has become the custodian of those records under the PRL. And as to those records, Cyber Ninjas has assumed the obligations the PRL assigns to a “custodian” of public records. Under the PRL, a person seeking public records must make its request to the “custodian” of the records. A.R.S. § 39-121.01(D)(1). “Access to a public record is deemed denied if a custodian fails to promptly respond to a request for production of a public record.” A.R.S. § 39-121.01(E).

¶16 In the event a custodian of public records refuses a request for those records, the person denied access “may appeal the [custodian’s] denial through a special action in the superior court, pursuant to the rules of procedure for special actions against the officer or public body.” A.R.S. § 39-121.02(A). As noted, PNI’s special action complaint also properly named the Senate and various Senate officials. Although the PRL does not

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

specify that a suit for damages may be brought against a custodian of public records, *see* A.R.S. § 39-121.02(C), in these circumstances, nothing prevents a party from joining a custodian of records as a party to a statutory special action under the PRL. *See* Ariz. R.P. Spec. Act. 2(a)(1), (b) (court may order joinder of persons² other than the “body, officer or person against whom relief is sought.”). *See also* *Arpaio v. Citizen Publ’g Co.*, 221 Ariz. 130, 133, ¶ 10 n.4 (App. 2008); *Gerow v. Covill*, 192 Ariz. 9, 14, ¶ 21 (App. 1998) (citing Ariz. R. Civ. P. 19(a)(1)(A) (where feasible, joinder may be required of a person “if, in that person’s absence, the court cannot accord complete relief among existing parties.”)).

¶17 Here, Cyber Ninjas was properly joined as a necessary party in PNI’s special action because, even though it is a private company, as a contractor and agent of the Senate, it is alleged to be the sole custodian of records pertaining to the audit that are subject to disclosure under the PRL. In other words, joinder of Cyber Ninjas is necessary only because the Senate does not have the public records that are in Cyber Ninjas’ custody. Under the unusual facts of this case, the custodian necessarily must be joined. Cyber Ninjas would not be a necessary party if it had turned over the public records requested by the Senate – it is a necessary party by its own actions.

¶18 To hold otherwise would circumvent the PRL’s purpose, which “exists to allow citizens to be informed about what their government is up to.” *Scottsdale Unified Sch. Dist. 48 of Maricopa Cnty. v. KPNX Broad. Co.*, 191 Ariz. 297, 302-03, ¶ 21 (1998) (citation and internal quotation marks omitted). We noted in *Fann* that “[t]he requested records are no less public records simply because they are in the possession of a third party, Cyber Ninjas.” 1 CA-SA 21-0141, at *4, ¶ 23. In *Forum Publishing Co. v. City of Fargo*, 391 N.W.2d 169 (N.D. 1986), the city of Fargo contracted a consulting firm to assist in the search of a new city chief of police. *Id.* at 170. A publishing company obtained a writ of mandamus from the District Court ordering the city to deliver applications and records disclosing the names and qualifications of applicants. *Id.* The city appealed. *Id.* In affirming the issuance of the writ of mandamus the North Dakota Supreme Court aptly observed:

We do not believe the open-record law can be circumvented by the delegation of a public duty to a third party, and these documents are not any less a public record simply because they were in possession of PDI. . . . [The] purpose of the open-

² Section 1-215(29) defines “person” as “a corporation, company, partnership, firm, association or society, as well as a natural person.”

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

record law would be thwarted if we were to hold that documents so closely connected with public business but in the possession of an agent or independent contractor of the public entity are not public records.

Id. at 172.

¶19 Cyber Ninjas argues that the logic of the superior court’s order would open the files of all government contractors to public inspection. We need not decide the extent to which the PRL applies to businesses that contract with the government to provide ordinary goods or services that government regularly purchases for the public. Contrary to Cyber Ninjas’ contention, our ruling does not mean that construction companies and office-supply vendors will have to rush to establish new “public records” departments. “Only documents with a substantial nexus to government activities qualify as public records.” *Lake v. City of Phoenix*, 222 Ariz. 547, 549, ¶ 8 (2009) (citation and internal quotation marks omitted). Here, the Senate’s decision to undertake the audit was premised on its oversight authority, an important legislative function, which it then entirely outsourced to Cyber Ninjas and its subvendors. Nothing in the superior court’s order or in this decision imposes obligations under the PRL on contractors that provide ordinary goods or services to the government.

¶20 In sum, the superior court did not err in determining that PNI properly joined Cyber Ninjas, the custodian of audit records subject to the PRL, when it filed a statutory special action to compel disclosure of those records. As noted above, we understand the Senate has asked Cyber Ninjas to turn over to the Senate certain documents related to the audit. To the extent Cyber Ninjas fails to deliver to the Senate any audit documents requested by PNI, it must “promptly furnish” those records directly to PNI. See A.R.S. § 39-121.01(D)(1). As the superior court ordered, the Senate and Cyber Ninjas may confer about which public records in the possession, custody, or control of either party should be withheld based on a purported privilege or for any other legal reason.

¶21 PNI requests attorneys’ fees and costs incurred in responding to the petition under A.R.S. §§ 39-121.02(B), 12-341, -342, and Ariz. R.P. Spec. Act. 4(g). Because PNI has substantially prevailed, we award it its reasonable costs and attorneys’ fees upon compliance with ARCAP 21 and Ariz. R.P. Spec. Act. 4(g).

CYBER NINJAS v. HON. HANNAH, et al.
Decision of the Court

CONCLUSION

¶22 For the foregoing reasons we accept jurisdiction, deny relief and lift the stay of proceedings previously issued regarding the superior court's August 24, 2021 order.



AMY M. WOOD • Clerk of the Court
FILED: AA

Exhibit F



John “Jack” D. Wilenchik, Esq.

WILENCHIK & BARTNESS

jackw@wb-law.com

— A PROFESSIONAL CORPORATION —

ATTORNEYS AT LAW

The Wilenchik & Bartness Building
2810 North Third Street Phoenix Arizona 85004

Telephone: 602-606-2810 Facsimile: 602-606-2811

November 9, 2021

VIA EMAIL ONLY

Kory Langhofer

kory@statecraftlaw.com**Re: LC2021-000180-001 and 1 CA-SA 21-0173**

Cyber Ninjas, Inc. is in receipt of the unpublished Memorandum Decision in the above-titled case. It remains CNI’s legal position that the definition of a “public record” requires actual government ownership of records, much less possession of them. Compelling private parties to produce privately-owned records to the government, which the government does not own or control, is a violation of the 4th and 14th Amendments and of Arizona’s constitutional right to privacy, *inter alia*, nor is it contemplated by our statutes which provide only for suit against a public officer or public body. Finally, the notion that the validity of a public-records request turns on whether it involves “ordinary goods or services” is legally-baseless, and would make any elections contractor or employee subject to being sued for public records.¹ Accordingly, CNI reserves its right to appeal that decision and to seek a further stay.

Without waiving such rights or contentions, CNI nevertheless sends this correspondence in an effort to “confer about which public records in the possession, custody or control of either party should be withheld based on a purported privilege or for any other legal reason.” By sending this correspondence, CNI does not concede that any of these materials actually constitute “public records” or that it is genuinely subject to the public-records statutes.

The lower court and Court of Appeals have defined “public record” to be “documents with a substantial nexus to government activities.” In this case, the relevant “government activity” was producing an audit report. CNI has already produced to the Senate all of its records with a “substantial nexus” to that report, with the three exceptions listed in the chart at bottom which will be withheld. CNI’s productions include the final report of all audit findings and recommendations; twenty-three (23) appendixes supporting all report findings; copies of the processes and procedures utilized with respect to the

¹ A.R.S. § 39-121.02(A) clearly provides that only a public officer or public body can be sued. It was never the legislature’s intention to render mere “custodians” of records subject to suit, because every government employee is a “custodian” of government records and can therefore all be sued. The Court of Appeals literally inserted the word “custodian” into its quotation of A.R.S. § 39-121.02(A), even though that word does not appear there. And where it is used in the statutes (see A.R.S. § 39-212.01), “custodian” clearly refers only to the “officer in custody,” which is consistent with both the use of that term in A.R.S. § 39-121 and the use of “officer or public body” in A.R.S. § 39-121.02(A).



Kory Langhofer
November 9, 2021
Page 2 of 4

investigation conducted for the audit; a copy of the security plan utilized for the investigation conducted for the audit; digital scans of more than seventy thousand (70,000) tally sheets; copies of aggregation database and master tally sheets; copies of over three hundred (300) emails directly related to audit activities; and a copy of a financial statement for all audit funds and expenditures.

Please consider this correspondence to be a “privilege log” in accordance with any applicable court order(s), and please note that counsel for Plaintiff is copied on this correspondence. Finally, attached hereto is a declaration from Douglas Logan attesting that all documents in CNI’s possession with a “substantial nexus” to the report have been produced to the Senate, except for the following:

No.	Description	Objection to Disclosure
1.	Images of actual ballots.	These records are subject to a ruling by Judge Thomason that the ballots contain confidential voter information and “[s]tatutes such as §§ 16-624 and 625, operate as restrictions on access by the general public” to such information. (See Minute Entry filed on March 1, 2021 in Maricopa County Superior Court Case No. 2020-016840.) These materials would also be costly for CNI to assemble and produce. CNI is entitled to a reasonable fee for the cost of the time, equipment and personnel used in producing copies of such records subject to public disclosure. Further, the actual ballots are already in the possession of the government (the county), and therefore CNI is not the “sole custodian” of such records (to quote the Court of Appeals’ Memorandum Decision).



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
November 9, 2021
Page 3 of 4

2.	Full forensic images of voting/tabulation equipment/machines.	The Senate has identified security issues if these records were produced to the public. These records would also be costly for CNI to assemble and produce. CNI is entitled to a reasonable fee for the cost of the time, equipment and personnel used in producing copies of such records subject to public disclosure. CNI also attempted to produce these records to the Senate in the past, and the Senate indicated that it did not want to take possession of them.
3.	Ballot-tracking video footage.	These records are subject to a ruling by Judge Thomason that the ballots contain confidential voter information and “[s]tatutes such as §§ 16-624 and 625, operate as restrictions on access by the general public” to such information. (See Minute Entry filed on March 1, 2021 in Maricopa County Superior Court Case No. 2020-016840.) These records consist of video of the ballots as they are being counted. It is also costly for CNI to assemble and produce these archives. CNI is entitled to a reasonable fee for the cost of the time, equipment and personnel used in producing copies of records subject to public disclosure.
4.	Partially-redacted names on emails.	The names of volunteers and other workers were partially redacted in order to protect personal privacy and the security of such persons.

Sincerely,

John “Jack” D. Wilenchik, Esq.

JDW/cmf

cc: David Bodney, Craig Hoffman



Kory Langhofer
November 9, 2021
Page 4 of 4

Declaration

I, Douglas Logan, make this Declaration of my own knowledge, and I am competent to testify to the matters contained herein.

1. I am the CEO of Cyber Ninjas, Inc. ("CNI").
2. CNI has produced to the Senate all of its records with a "substantial nexus" to the report that it produced for the Senate, with the exceptions as noted above.
3. In determining what records have a "substantial nexus," I made an assessment of those documents or other records that formed a causal link with the audit report and its related investigation, or that were so closely related to the report and related investigation that they can be fairly said to be a part of them.

I declare under penalty of perjury under the laws of the State of Arizona that I have read the above Declaration, am familiar with its contents, and know the same to be true and correct of my own personal knowledge.

Dated: 11/10/2021

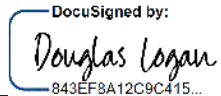
Signature: 
By: Douglas Logan

Exhibit G

SUPREME COURT OF ARIZONA

CYBER NINJAS, INC.,	)	Arizona Supreme Court
	)	No. CV-21-0281-PR
Petitioner,)	
	)	Court of Appeals
v.	)	Division One
	)	No. 1 CA-SA 21-0173
THE HONORABLE JOHN HANNAH, JUDGE)	
OF THE SUPERIOR COURT OF THE	)	Maricopa County
STATE OF ARIZONA, in and for the	)	Superior Court
County of Maricopa,	)	No. LC2021-000180-001
)	
Respondent Judge,)	
)	
PHOENIX NEWSPAPERS, INC., an)	
Arizona corporation, and KATHY)	
TULUMELLO; ARIZONA STATE SENATE,)	
a public body of the State of)	
Arizona; KAREN FANN, in her	)	FILED 11/30/2021
official capacity as President)	
of the Arizona State Senate;)	
WARREN PETERSEN, in his official)	
capacity as the Chairman of the)	
Arizona Senate Committee on the)	
Judiciary; SUSAN ACEVES, in her)	
official capacity as Secretary)	
of the Arizona State Senate,)	
)	
Real Parties in Interest.)	
)	

O R D E R

Petitioner Cyber Ninjas Inc., ("CNI") filed a "Petition for Special Action or in the Alternative Petition for Review" which the Court is treating as a petition for review. It also filed an "Application for Stay" seeking a Court order staying the August 24, 2021 Superior Court order ("Order") directing CNI to produce to respondent Phoenix Newspapers, Inc., et al ("PNI") Public Records PNI requested on June 2, 2021.

Respondent PNI filed a response to the Application for Stay apprising the Court that on November 24, 2021, CNI filed a Motion for Reconsideration in the Court of Appeals which effectively stays CNI's petition for review under ARCAP Rule 23(c) and renders the Application for Stay moot. Therefore,

IT IS ORDERED denying the Application for Stay without prejudice.

The Petition for Review will be addressed in due course pending resolution of the Motion for Reconsideration.

IT IS FURTHER ORDERED that CNI will promptly notify this Court of any action taken by the Court of Appeals with respect to the Motion for Reconsideration.

DATED this 30th day of November, 2021.

_____/s/_____
WILLIAM G. MONTGOMERY
Duty Justice

TO:

Dennis I Wilenchik

John D Wilenchik

Jordan C Wolff

David Jeremy Bodney

Craig C Hoffman

Kory A Langhofer

Thomas J Basile

Amy M Wood

Hon. Jeff Fine

Exhibit H

SUPREME COURT OF ARIZONA

CYBER NINJAS, INC.,	)	Arizona Supreme Court
	)	No. CV-21-0281-PR
Petitioner,)	
	)	Court of Appeals
v.	)	Division One
	)	No. 1 CA-SA 21-0173
THE HONORABLE JOHN HANNAH, JUDGE)	
OF THE SUPERIOR COURT OF THE	)	Maricopa County
STATE OF ARIZONA, in and for the	)	Superior Court
County of Maricopa,	)	No. LC2021-000180-001
)	
Respondent Judge,)	
)	
PHOENIX NEWSPAPERS, INC., an)	
Arizona corporation, and KATHY)	
TULUMELLO; ARIZONA STATE SENATE,	)	FILED 12/01/2021
a public body of the State of)	
Arizona; KAREN FANN, in her)	
official capacity as President)	
of the Arizona State Senate;)	
WARREN PETERSEN, in his official)	
capacity as the Chairman of the)	
Arizona Senate Committee on the)	
Judiciary; SUSAN ACEVES, in her)	
official capacity as Secretary)	
of the Arizona State Senate,)	
)	
Real Parties in Interest.)	
)	

O R D E R

Petitioner Cyber Ninjas Inc., ("CNI") has filed a "Petition for Special Action or in the Alternative Petition for Review" which the Court is treating as a petition for review. It has also filed an "Application for Stay" seeking a Court order staying the August 24, 2021 superior court order directing CNI to produce to respondent Phoenix Newspapers, Inc., et al ("PNI") "Public Records" under A.R.S. § 39-121.01(A)(the "Public Records Law" or "PRL").

CNI filed a request for stay which the Court denied on November

30, 2021 observing that a Motion for Reconsideration was pending in the Court of Appeals. Having been advised that CNI has withdrawn its Motion for Reconsideration, the Court en banc addresses the Application for Stay.

PNI's Public Records request requested documents that were identified in a June 2, 2021 email to include:

1. all financial records related to the Audit, including without limitation all bids, requests for bids or requests for proposals, contracts, amendments to contracts, invoices, bills, receipts and records of all payments or donations for such Audit-related work;
2. all communications regarding the performance, funding and/or staffing of the Audit between or involving any officer, director, employee or agent of Cyber Ninjas and:
 - a. any member of the Arizona Senate or any employee or agent communicating on behalf of any Senator;
 - b. any "liaison" for the Arizona Senate or any Senator, including Ken Bennett and Randy Pullen, or anyone communicating on their behalf any member of the Maricopa County Board of Supervisors, Maricopa County Recorder Steven Richer, Maricopa County Sheriff Paul Penzone or anyone communicating on their behalf;
 - c. member of the Arizona House of Representatives Mark Finchem and former member of the Arizona House of Representatives

- Anthony Kern, or anyone communicating on their behalf;
- d. any member of the United States Congress who represents an Arizona congressional district, or anyone communicating on their behalf;
- e. former U.S. President Donald Trump or anyone communicating on his behalf; and
- f. Christina Bobb of One America News Network, or anyone communicating on her behalf.

CNI contends that "its records are not public as a matter of law because the government does not own or control them, much less rely on or even have access to them." CNI objects to producing "its own internal emails regarding performance of its contract or related matters." CNI challenges the Court of Appeals' finding, "To the extent Cyber Ninjas is in sole possession of audit-related public records because of its contract with the Senate, Cyber Ninjas has become the custodian of those records under the PRL. And as to those records, Cyber Ninjas has assumed the obligations the PRL assigns to a 'custodian' of public records." *Cyber Ninjas, Inc., v. Hannah*, 1 CA-SA 21-0173, 2021 WL 5183944, at *3 (App. Nov. 9, 2021).

Respondent PNI filed a response to the Application for Stay pointing out that under the superior court order, CNI is not required to produce documents directly to PNI but is instead required to produce documents to the Senate and, in conjunction with the Senate, may confer regarding which public records, if any "should be withheld

based on a purported privilege or for any other legal reason." See Order page 4, lines 11-17. CNI may therefore assert any pertinent objections in the Superior Court and, if necessary, seek appropriate review in the Court of Appeals.

Upon consideration,

IT IS ORDERED denying the Application for Stay without prejudice.

IT IS FURTHER ORDERED denying CNI's request for oral argument. The Court will consider the Petition for Review in due course. Any response to the Petition for Review is due no later than December 22, 2021. If PNI wishes the matter to be considered at the January 4, 2022 agenda date, it may file its response to the Petition for Review no later than December 15, 2021. If its response is filed after that date, the matter will be considered at the February 1, 2022 agenda.

DATED this 1st day of December, 2021.

_____/s/_____
WILLIAM G. MONTGOMERY
Duty Justice

TO:

Dennis I Wilenchik
John D Wilenchik
Jordan C Wolff
David Jeremy Bodney
Craig C Hoffman
Kory A Langhofer
Thomas J Basile
Amy M Wood
Hon. Jeff Fine
Hon. John Hannah
nm

Exhibit I



John “Jack” D. Wilenchik, Esq.

WILENCHIK & BARTNESS

jackw@wb-law.com

— A PROFESSIONAL CORPORATION —

ATTORNEYS AT LAW

The Wilenchik & Bartness Building
2810 North Third Street Phoenix Arizona 85004

Telephone: 602-606-2810 Facsimile: 602-606-2811

December 16, 2021

VIA EMAIL ONLY

Kory Langhofer

kory@statecraftlaw.com

**Re: Superior Court Case No. LC2021-000180-001; Court of Appeals Case No. 1
CA-SA 21-0173; Arizona Supreme Court Case No. CV-21-0281-PR**

Cyber Ninjas, Inc. (“CNI”) is in receipt of the Order dated December 1, 2021 by the Arizona Supreme Court in the above-numbered Petition. The Order states in relevant part: “...under the [August 24, 2021] superior court order, CNI is not required to produce documents directly to PNI but is instead required to produce documents to the Senate and, in conjunction with the Senate, may confer regarding which public records, if any ‘should be withheld based on a purported privilege or for any other legal [sic] reason.’ CNI may therefore assert any pertinent objections in the Superior Court and, if necessary, seek appropriate review in the Court of Appeals.” The Supreme Court’s Order does not address the requirement *vel non* for CNI to produce a “privilege log.”

CNI is also in receipt of Judge Hannah’s Minute Entry dated November 30, 2021 which ordered “that the Cyber Ninjas immediately begin complying with the court’s previous order to produce what has been termed a ‘privilege log,’ though that is a bit of a misnomer because the log must enumerate and describe not only records for which a privilege is claimed but also audit related records that Cyber Ninjas contends are not public records....” Judge Hannah’s Order also stated that “the process of disclosing to PNI those records that Cyber Ninjas deems to be public records must proceed immediately, along with the process of creating the privilege log.”

CNI believes that any order for it to produce documents directly to PNI has been effectively stayed/overruled by the Arizona Supreme Court. However, this issue is presently moot, because CNI has no documents to produce to either the Senate or to PNI. In a good-faith effort to weave together these competing orders from the superior court and Supreme Court, and to comply with all of them as best it can, CNI hereby produces a “privilege log” which enumerates and describes the records that it is withholding. The records described were (1) requested by the Plaintiff in its public records request; and (2) are related to the audit. Since the Plaintiff’s requests appear to have been limited to documents related to the audit, these two categories are simply merged into documents that the Plaintiff has requested. For each subcategory of records that Plaintiff has requested, CNI describes why it is withholding the records.



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
December 16, 2021
Page 2 of 6

Finally, CNI acknowledges that this log contains general subcategories of documents and does not list each and every document within the category. CNI simply does not have the money to make a more detailed log. The Senate has failed and refused to pay CNI for the balance of CNI's contract, which came due and amounted to \$100,000. And as the Senate indicated during the last hearing, the Senate has no intention of paying CNI anything further – including reimbursing CNI's legal costs in this matter, CNI's costs to produce records, or CNI's costs related to producing detailed logs. CNI receives no taxpayer funding to comply with records requests, nor does CNI have a “free” lawyer in the form of the Arizona Attorney General's Office to provide counsel on such requests. CNI is an insolvent private company and the requested records are all clearly private records. The idea that CNI has a legal obligation to respond to public records requests from the public – seeking what are clearly private documents that the government does not even own – continues to be transparently erroneous not just as a legal matter but as a practical and economic one. If someone wants to pay CNI to do more work on this then that certainly helps but presently all parties are refusing to do so and the Court is indicating no genuine intent to make anyone do so. The Court has no right to compel CNI to work for the government or for others for free, in violation of the Thirteenth Amendment, much less to compel CNI to produce private documents to a public body without probable cause in violation of the 4th and 14th Amendments and the privacy clause of the Arizona Constitution, *inter alia*.

Please note below the anticipated cost of production for each requested item, which is based on typical rates for FOIA production costs. Even if the public records statutes applied to CNI, then CNI is entitled to such costs because it is not a public officer or body and therefore entitled to decide its own rates. The government and the courts have no right to force any particular rate on CNI, much less to force it do work for free. In addition all of the following items are subject to the general objection that the names of volunteers and other staff is private and must be kept private because CNI promised this to them, as well as because of the security risk in “doxxing” them and the fact that there is zero legitimate public interest in that information (much less any of the private documents and information listed below) that would outweigh these concerns or other including the burden of production. Because CNI is not being paid to review these items in even more detail, it reserves the right to assert more particular objections to each specific item if and when it is ever paid to compile such a list. All previous objections including those asserted in its July 27, 2021 filing are re-asserted herein.

...
...
...
...
...
...
...



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
December 16, 2021
Page 3 of 6

REQUESTED ITEM	OBJECTION
“all financial records related to the Audit, including without limitation all bids, requests for bids or requests for proposals, contracts, amendments to contracts, invoices, bills, receipts and records of all payments or donations for such Audit related work;”	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>The estimated costs for searching, editing and reviewing this item are \$5,776. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>
“all communications regarding the performance, funding and/or staffing of the Audit between or involving any officer, director, employee or agent of Cyber Ninjas and;”	<p>See objections below</p>
“any member of the Arizona Senate or any employee or agent communicating on behalf of any Senator;”	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$7,449. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
December 16, 2021
Page 4 of 6

<p>“any ‘liaison’ for the Arizona Senate or any Senator, including Ken Bennett and Randy Pullen, or anyone communicating on their behalf;”</p>	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$7,881. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>
<p>“any member of the Maricopa County Board of Supervisors, Maricopa County Recorder Steven Richer, Maricopa County Sheriff Paul Penzone or anyone communicating on their behalf;”</p>	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$298. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>
<p>“member of the Arizona House of Representatives Mark Finchem and former member of the Arizona House of Representatives Anthony Kern, or anyone communicating on their behalf;”</p>	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$596. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
December 16, 2021
Page 5 of 6

“any member of the United States Congress who represents an Arizona congressional district, or anyone communicating on their behalf;”	Not a public record. In any event, there are none.
“former U.S. President Donald Trump or anyone communicating on his behalf; and”	Not a public record. In any event, there are none.
“Christina Bobb of One America News Network, or anyone communicating on her behalf.”	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$6,703. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>
“all communications regarding the performance, funding and/or staffing of the Audit between any officer, director, employee or agent of Cyber Ninjas and any officer, director, employee or agent of any subcontractor, including without limitation Wake Technology Services, Inc., CyFir LLC and Strat Tech Solutions LLC;”	<p>Not public records. (These are private documents that are not owned by, created by, or even relied on by the government.)</p> <p>Estimated costs for searching, editing and reviewing this item are \$ 38,570. CNI is not a public agency that receives taxpayer funds and is entitled to payment of these costs.</p> <p>CNI re-asserts all objections from its July 27, 2021 filing.</p>
“all communications regarding the performance, funding and/or staffing of the Audit between any officer, director, employee or agent of Cyber Ninjas and any officer, director, employee or agent of any contractor engaged by Maricopa County, including without limitation Pro V&V and SLI Compliance.”	Not a public record. In any event, there are none.



WILENCHIK & BARTNESS
— A PROFESSIONAL CORPORATION —

Kory Langhofer
December 16, 2021
Page 6 of 6

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Wilenchik', with a stylized flourish at the end.

John "Jack" D. Wilenchik, Esq.

cc: David Bodney, Craig Hoffman

Exhibit J



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

TRACIE K. LINDEMAN
Clerk of the Court

January 5, 2022

RE: CYBER NINJAS v HON. HANNAH/PHX NEWSPAPERS et al
Arizona Supreme Court No. CV-21-0281-PR
Court of Appeals, Division One No. 1 CA-SA 21-0173
Maricopa County Superior Court No. LC2021-000180-001

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on January 4, 2022, in regard to the above-referenced cause:

ORDERED: Petition for Special Action, or in the Alternative Petition for Review = DENIED without prejudice to raising these issues on appeal when the case before the superior court is final.

Tracie K. Lindeman, Clerk

TO:

Dennis I Wilenchik
John D Wilenchik
Jordan C Wolff
Hon. John R Hannah Jr
David Jeremy Bodney
Craig C Hoffman
Matthew E Kelley
Kory A Langhofer
Thomas J Basile
Amy M Wood
Hon. Jeff Fine
nm